



Virginia State Corporation Commission

# Bureau of Insurance

1-877-310-6560 • [www.scc.virginia.gov/division/boi/index.htm](http://www.scc.virginia.gov/division/boi/index.htm)

## Facts About Long-Term Care Insurance In Virginia

### Shop Carefully and Avoid Pitfalls

Long-term care insurance is designed to assist individuals with some or all of the costs of medical and personal care provided in the home, an assisted living facility, a nursing home, or through a community program such as adult day-care. Long-term care insurance often provides coverage for costs associated with personal care when the covered individual is unable to perform activities of daily living such as bathing, eating, dressing or toileting. Long-term care insurance may also assist people in need of skilled care because of a prolonged medical condition, a disability or a cognitive impairment, such as Alzheimer's disease.

Some long-term care insurance policies provide more coverage than others. Before you buy long-term care insurance, decide what coverage you need and can afford. Long-term care insurance can help to safeguard your assets and protect your financial independence, but it can be expensive. Depending on your level of income and the value of your assets, long-term care insurance may or may not be the most appropriate option for your long-term care financing. It is also important to consider the rising costs of health care when purchasing long-term care insurance. In Virginia, these policies must offer inflation protection.

### Requirements for Long-Term Care Insurance Policies Issued in Virginia

- There can be no requirement for a prior hospital or skilled nursing home stay as a trigger for benefits.
- All [pre-existing conditions](#) must be covered after six months.
- Policies must be [guaranteed renewable](#) or [noncancellable](#).
- [Portability](#) is required for all group contracts.
- [Inflation protection](#) coverage must be offered.
- After age 65, no [attained age rating](#) is allowed.
- Policies must provide benefits for a minimum of 12 months.
- Policies may not use waivers or riders to exclude coverage for [pre-existing conditions](#).
- Policies cannot require that home health care be provided by an RN or LPN.
- All policies must have a 30-day ["free-look"](#) provision.
- No policy may exclude or limit benefits based on Alzheimer's disease, senility, dementia, organic brain disorder, or other similar diagnoses.
- An option for the insurer to notify an individual designated by the insured before a policy lapses or terminates is available with long-term care policies.
- Rate revisions must be approved by the Bureau of Insurance prior to implementation.
- No new waiting period for [pre-existing conditions](#) is required when replacing policies.

See ["Important Terms"](#) on next page.

## **Important Terms**

**ATTAINED AGE RATING** – Premiums are based on the covered individual's age at the time of application of the policy or certification. Premiums will increase as he or she ages regardless of his or her age when first enrolled.

**DUPLICATE COVERAGE** – Do not buy duplicate coverage. Consider increasing current coverage instead. If you replace a policy with another new policy, Virginia Bureau of Insurance regulations require agents or insurance companies to: a) offer to check on all your other policies for possible duplicate coverage, b) warn you in writing not to cancel any policy until the "free look" period is over and you are satisfied with the new one, and c) give credit for time spent under your previous policy toward satisfying pre-existing condition waiting periods.

**ELIMINATION PERIODS** – A type of deductible; the length of time the individual must pay for covered services before the insurance company will begin to make payments. The longer the elimination period in a policy, the lower the premium.

**FREE LOOK** – All long-term care policies must provide a "free look" period of at least 30 days that will allow you to review your purchase. For a full refund of any premium paid, return the policy before the end of the 30 day period.

**GUARANTEED RENEWABLE** – Long-term care insurance policies sold in Virginia must be at least guaranteed renewable. Under a guaranteed renewable policy, the insured is the only one who voluntarily can cancel the policy. The easiest and most common way the insured does that is to simply stop paying the premiums. The company may not change policy provisions or refuse to continue your coverage. Premiums, however, may be raised for an entire class of policyholders. Policies may not increase rates based on attained age after your 65th birthday.

**HOME HEALTH BENEFITS** – Do not confuse at home recovery benefits with more extensive home health care benefits. Recovery benefits often are limited to short periods, usually no longer than your hospital or nursing home stay.

**INFLATION PROTECTION** – The Virginia Bureau of Insurance requires companies to offer you at least one of three methods of increasing the daily benefit amount to offset the effect of inflation. You may reject or accept the offer. The three methods available are: a) annual benefit level increases of at least 5%, b) the guarantee of periodic opportunities to increase benefit levels, or c) coverage of a specific percentage of actual reasonable charges. If you reject the inflation protection, it **MUST** be in writing.

**MENTAL AND NERVOUS DISORDERS** – Long-term care policies may limit or exclude coverage of some mental or nervous disorders. However, they must provide coverage of Alzheimer's' disease and related disorders of biologically caused brain diseases and serious mental illness, including progressive dementing illness, organic brain disorders and degenerative brain disorders.

**NONCANCELABLE** – A long-term care policy that cannot be cancelled by the insurance company and for which the rates cannot be changed by the insurance company.

**NONFORFEITURE BENEFITS** – A nonforfeiture benefit provides that after a policyholder has paid into a policy for a specified period of time, the policyholder continues to have some benefits even if he/she is unable to continue paying premiums. Those benefits take different forms and affect the policy price.

**PORTABILITY** – Group long-term care insurance also guarantees coverage that is fully portable. The insurer cannot terminate an individual's coverage because they no longer meet the eligibility requirements for the group insurance. This might occur when an employee leaves the company, divorces a spouse, or retires. The insurer may require the insured to elect a method of paying premiums directly, rather than through the sponsoring group.

**PRE-EXISTING CONDITION** – A pre-existing condition is an illness or disability for which you received medical advice or treatment during a period of time before you apply for insurance. Most policies do not pay for pre-existing conditions during the waiting period after you become insured. State law limits the long-term care pre-existing policy waiting period to six months.

## PROHIBITED PRACTICES

Insurance companies and agents may not engage in unfair and deceptive trade practices including:

1. Twisting – to knowingly make any misleading representation or comparison causing someone to cancel a policy with one company and buy a replacement from another company,
2. High Pressure Tactics – to use force, fright or threat to pressure someone into purchasing a policy, and
3. Cold Lead Advertising – to develop sales leads for a policy using deceptive advertising techniques.

Insurers also may not advertise a product as long-term care insurance if it provides less than twelve consecutive months of benefits.

### PREMIUM PRICING

The initial premium for a long-term care insurance policy is based on:

- your age at policy purchase,
- the elimination period, and
- policy benefits and duration.

**AGE** – The younger you are when you buy the policy, the less you pay in initial premiums. The premium may increase with age (after age 65 a long-term care insurer cannot use age to increase cost).

**ELIMINATION PERIOD** – Premiums are lower for longer elimination periods. (The elimination period is the number of days of care you pay for out-of-pocket before the insurance company begins paying benefits for your care.)

**BENEFITS** – A policy paying \$50 per day for three years will cost less than one paying \$100 a day for five years.

### QUESTIONS TO ASK BEFORE BUYING

- What types of care are covered?
- What are my choices for the following: Daily Maximum, Elimination Period, and Inflation Rider?
- How much is the daily benefit for nursing home, home health care, adult day care, or assisted living care?

- For how many years does the policy provide benefits for nursing home care, home health care, adult day care, or assisted living care?
- How does the policy keep up with inflation?
- How much would you pay in premium each year?
- Is there a lifetime maximum on the benefits?
- How long before pre-existing conditions are covered?
- Are the insurance company and agent licensed in Virginia to market long-term care policies?
- What conditions must be met in order to receive benefits under the policy?
  - inability to perform Activities of Daily Living
  - doctor's certification

### SHOPPING TIPS

- Shop around – check with different companies because long-term care policies can be different in the benefits provided and in the price.
- Don't sign a blank application.
- Don't purchase long-term care unless you know that you can afford the coverage.
- Understand what you are getting. If you do not understand, ask questions.
- Do not pay cash.
- Don't make checks payable to the agent; make them payable to the company.
- An "Outline of Coverage" – must be provided.

## What is a Federally Qualified Plan?

The Health Insurance Portability and Accountability Act, effective January 1, 1997, established the tax treatment of the premiums paid for long-term care policies as well as the benefits paid by long-term care policies that meet certain federal standards. The federal act requires that the long-term care policy and outline of coverage state that the policy is tax qualified.

If you have questions about the tax status of the long-term care policy that you are considering purchasing, you can contact your agent or the insurance carrier. If you have questions on how the purchase of a long-term care tax qualified policy will impact the taxes you pay, you may want to consult with your tax advisor.

### Benefits

In a tax-qualified policy, premiums paid by an individual can be counted as unreimbursed medical expenses and may be deducted if total expenses exceed 7.5 percent of adjusted gross income. There are limitations based on age.

Benefits paid under a federally qualified plan are generally excluded from taxable income.

Consult with a tax advisor if you have questions about how tax-qualified policies could affect you. Policies approved as long-term care insurance before January 1, 1997, are grandfathered under the Act; therefore, premiums paid for these policies are also subject to favorable tax treatment.

### Requirements

To be a federally qualified long-term care plan, the contract must meet the following criteria:

- must be guaranteed renewable and cannot have a cash surrender value;
- there must be an offer of a nonforfeiture benefit;
- individuals must be unable to do two activities of daily living (ADL's) without substantial assistance;
- for cognitive impairment to be covered, a person must require substantial supervision; and
- disability must be expected to last for at least 90 days, and verification must be from a certified health care provider.

## Consult with a tax advisor if you have questions about how tax-qualified policies could affect you.

### Virginia Tax Deduction

If the tax-qualified policy was purchased after January 1, 2006, an individual may be eligible for a tax credit equal to 15% of the total premiums paid in the year. Certain limitations apply. Other credits may be available for previously purchased policies. Consult your tax advisor.

### Individual vs. Group Long-Term Care Insurance

An individual long-term care policy is a contract between you and the insurer. The long-term care benefits provided can vary from insurance company to insurance company. Therefore, it is important that you shop around to find the long-term care insurance coverage that is best for you.

Group long-term care insurance is a contract between the insurer and a group, such as an

employer or professional trade association. Individuals may be eligible for coverage under the Federal Long-Term Care insurance program. Federal employees, members of the uniform services, and other qualified individuals may be eligible to apply for the long-term care coverage. Some state governments may also make long-term care coverage available to state employees and their relatives.

If you are covered under a group policy, you will receive a certificate of insurance and not a policy. Also, the group policyholder (i.e. employer, association, etc.) negotiates the terms of the policy and has the option to terminate this policy. If you choose to purchase group long-term care coverage, check what options are available to you if the group should terminate the coverage.

## Virginia's Long-Term Care Partnership

As of September 1, 2007, Virginians are now able to purchase a new type of long-term care (LTC) insurance policy – a LTC Partnership policy.

The LTC Partnership is an alliance between the private insurance industry and Virginia state government to help Virginians afford future long-term care services without depleting all of their assets to pay for care. LTC Partnership policy holders who use their LTC Partnership insurance policy benefits and who eventually apply for Medicaid coverage are able to maintain some level of assets (equal to the LTC insurance benefit paid) above the \$2,000 Medicaid asset limit currently in place for eligibility purposes.

### ***How will the Long-term Care Partnership Work?***

For every dollar that a LTC Partnership insurance policy pays out in benefits, a dollar of personal assets can be protected (disregarded during the Medicaid eligibility review) if the individual chooses to apply for Medicaid.

### **LTC Partnership policy requirements:**

- LTC Partnership policies look very similar to traditional LTC insurance policies except that all Partnership policies must include annual compound inflation protection for individuals under age 61 and some form of inflation protection for individuals ages 61 – 76. Inflation protection helps the policy keep up with the rising cost of LTC services.
- All Partnership policies must be issued after the program began in Virginia (September 1, 2007).
- Per federal law, Virginia is not allowed to “grandfather” policies. Current long-term care insurance policy holders who wish to obtain a Partnership policy should contact their agent, carrier, or the carrier of their choice regarding issuance of a new Partnership qualified policy.

### ***Frequently Asked Questions***

*What is the advantage of a Partnership policy over a non-Partnership LTC insurance policy?*

- Partnership and non-Partnership policies are virtually the same except that Partnership policies have the added benefit of allowing policyholders to protect a portion of their assets if they choose to apply for Medicaid.

*Will my Virginia Partnership policy qualify me for dollar-for-dollar asset protection in other states?*

- Most likely, although the answer to this question is not fully known at this time. Virginia plans to participate in a national reciprocity agreement that is currently under development, but it is likely that not all states will participate in this. Also, the applicant will need to meet all Medicaid requirements for the new state of residence.

*If I exhaust my LTC Partnership policy, will I automatically qualify for Medicaid?*

- No! You must still meet level of care requirements (for LTC) and the income and resource requirements (minus the amount of assets you can protect from your Partnership policy, i.e., the amount of benefits paid out by the insurer on your behalf).

**For further information about the Virginia Long-Term Care Partnership visit:**

**[www.valtcpartnership.org](http://www.valtcpartnership.org)**

**Or contact the Virginia Department for the Aging for a referral to your local Virginia Counseling and Assistance Program (VICAP) at 1-800-552-3402**